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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,536	11/13/2001	Dougan H. Clarke	1.022.01	2678

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EXAMINER

YIP, WINNIE S

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/008,536

Applicant(s)

CLARKE, DOUGAN H.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6,7,12-14,18 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,10,11 and 16 is/are rejected.
- 7) ☒ Claim(s) 5,8,9,15 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This office action is in response to applicant's response filed on March 11, 2003.

#### ***Response To The Election***

1. Applicant's election without traverse of election in Paper No. 6 is acknowledged. Applicant elects the species of the invention of Group I, illustrated in Figures 1-9. Applicant indicates the claims 1-4, 5-8, 9, and 1-017 readable on the elected specie. However, Claims 2, 6, and 12-14, recite a cam cleat member which is illustrated in Figure 13, as a non-elected specie of Group III; and Claims 3, 7 and 18-19, recite a stabilizer arm which is illustrated in Figures 10-11, as a non-elected specie of Group II.

Therefore, claims 2-3, 6-7, 12-14 and 18-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected specie, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement in Paper No. 6.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) and 1.84(h)(4). The drawings must show every feature of the invention specified in the claims. Therefore, the feature of "the main and secondary hub members capable of rotating about the longitudinal axis of the pole member" (claims 1, 5, 9, 10) must be shown or the feature canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description of the invention. The specification fails to clearly define whether or not the main and secondary hub members (18, 30) are capable of rotating about a longitudinal axis of the pole member (12) in a final product. According to the specification, the secondary hub member (30) is fixed in a substantially rigid position about the pole member (12) when a nut (17) is tightened about the bolt (15), and being freely rotated only when the nut (17) is loosened. It is not clearly whether or not, in a final product, the nut (17) is fixed to the upper end of the pole member. When the nut (17) is fixed, if it is a final product, the main hub member (28) does not appear can be freely rotated about the pole due to the connection of the ribs and strut members to the secondary hub. The main hub appears can slide along the pole member in a final product. A claim must be a final product. Clarification is requested.

***Claim Rejections - 35 USC § 112***

5. Claims 1, 5, 9 and 10 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

***Claim Rejections - 35 U.S.C. § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Apple (US patent No. 5,020,557).

Apple shows and discloses an umbrella frame comprising a central pole member (12) having a hollow interior (14), a secondary hub member (24), a main hub member (34), a plurality of rib members (20) and strut members (22) pivotally connected to the hub members to provide a means for supporting a canopy member (18) thereon, the secondary hub member (24) including a central cavity extending axially therethrough and having a diameter sized to receive a top end of the pole member, at least one bolt (30) extending from the top end of the pole member to rotatably secure the secondary hub member on the pole member such that the main and secondary hub members being capably rotatable about the longitudinal axis of the pole member, and a retaining pin (38) being placed within a retaining pin slot (40) formed on the pole member to provide means for maintaining the main hub member (34) in a vertical position along the pole member (14) while permitting rotation of the main hub member (26) about the pole member.

8. Claims 1, 4, 10-11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Dubunsky (US patent No. 5,460,984).

Dubunsky shows and discloses an umbrella frame comprising a central pole member (14), a secondary hub member (34) with a plurality of slots, a main hub member (26) with a plurality of slots, a plurality of rib members (28) and strut members (22) pivotally connected to the hub members in the respective slots to provide a means for supporting a canopy member (16)

thereon, the secondary hub member (34) including a central cavity to receive and secured to a top end of the pole member, the main and secondary hub members being capably rotatable about the pole axis, pulley means including at least one pulley (38) secured to the pole member at a location between the main and secondary hub members, two bracket members secured to the top surface of the main hub member (26) , and a line member (36) having a first end connecting the bracket members at the top surface of the main hub member and a second end (40) cooperatively engaging the pulley means and extending downwardly from the pulley toward providing means for raising and lowering the main hub member along the pole member, and a retaining pin (50) being placed within a retaining pin slot formed on the pole member to provide means for maintaining the main hub member (26) in a vertical position along the pole member (14) while permitting rotation of the main hub member (26) about the pole member.

***Allowable Subject Matter***

9. Claims 5 and 8-9 would be allowable if rewritten or amended to overcome the objections under 35 U.S.C. 112, first paragraph, set forth in this Office action.

10. Claims 15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, whether taken individually or in combination, does not reveal or render obvious an umbrella frame comprising a bolt being inserted into a hollow interior of the pole

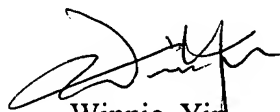
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member, and a secondary hub member having a central cavity to receive the bolt as claimed such that the secondary hub member and a main hub member being rotatable about a longitudinal axis of the pole member in an opened position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip  
Examiner  
Art Unit 3637

wsy  
May 30, 2003